

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:18-CV-00516-RJC-DSC**

ANSCO & ASSOCIATES, LLC,)
)
 Plaintiff,)
)
 v.)
)
 SELECTIVE INSURANCE COMPANY)
 OF SOUTH CAROLINA AND AJC)
 CONTRACTING, INC.,)
)
 Defendants.)

ORDER

THIS MATTER is before the Court on the “Defendant Selective Insurance Company of South Carolina’s Motion to Dismiss or for Joinder” (document # 8) filed November 14, 2018. This matter was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1).

On November 14, 2018, Defendant Selective Insurance Company of South Carolina filed docket entry 8 entitled “Defendant Selective Insurance Company of South Carolina’s Motion to Dismiss or for Joinder”. This document included one paragraph stating that “pursuant to N.C. Gen. Stat. §1A-1, Rules 12(b)(7) and 19(a)(1)(B)(ii), and other provisions of the law, and (before Answering the Complaint herein) moves this Honorable Court for a dismissal, or joinder of an additional Party....” Doc. 8. In addition to this paragraph moving the Court to dismiss the case or order the joinder of Bellsouth Telecommunications, Inc. d/b/a AT&T as a required party, the Defendant answered the Amended Complaint. No supporting brief was filed with this document initially or after counsel was alerted by the Clerk’s office that one was required. The Clerk’s office also alerted counsel to the error in docketing the Answer with the Motion to Dismiss.

Local Civil Rule 7.1(c)(1) governs the Court's treatment of motions contained in initial responsive pleadings that are not accompanied by a supporting brief. Pursuant to Local Civil Rule 7.1(c)(1):

Motions to dismiss in answers to complaints ... are deemed to be made merely to preserve the issue and will not be addressed by the Court. A party seeking a decision on any preserved motion must file a separate motion and supporting brief.

LCvR 7.1(c)(1). In addition, Local Civil Rule 16.1 explains as follows:

Rule 12 motions contained in an Answer, but not supported by a brief, act as placeholders and do not prevent joinder of the issues.

LCvR 16.1(d).

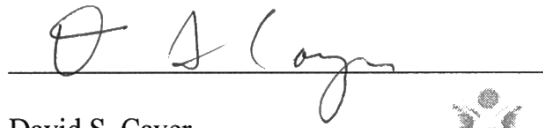
Here, since Defendant Selective's Rule 12(b)(7) Motion does not comply with Local Civil Rule 7.1, the Court does not address the Motion and it is administratively DENIED as moot without prejudice until such time as it is re-filed and briefed in accordance with the Local Civil Rules.

IT IS HEREBY ORDERED that:

1. "Defendant Selective Insurance Company of South Carolina's Motion to Dismiss or for Joinder" (document # 8) is administratively DENIED as moot without prejudice.
2. The Clerk is directed to send copies of this Order to counsel for the parties, including but not limited to moving counsel, and to the Honorable Robert J. Conrad, Jr.

SO ORDERED.

Signed: January 11, 2019

A handwritten signature in cursive script, appearing to read "D S Cayer", is written over a horizontal line.

David S. Cayer
United States Magistrate Judge

